

1 HB620
2 155808-1
3 By Representatives Johnson (K), Nordgren, Hurst, Johnson (W)
4 and Buttram
5 RFD: Judiciary
6 First Read: 19-MAR-14

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8 SYNOPSIS: Under existing law, a person convicted of a
9 criminal sex offense involving a child 12 years of
10 age or younger is not eligible to receive benefits
11 of correctional incentive time to reduce his or her
12 term of imprisonment.

13 This bill would require that a person
14 convicted of a sex offense is not eligible to
15 receive benefits of correctional incentive time if
16 the victim of the offense is at least 12 years of
17 age, but is less than 16 years of age and the
18 person convicted of the offense is at least 10
19 years older than the victim.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, now appearing as Section 111.05 of the
22 Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, prohibits a general
24 law whose purpose or effect would be to require a
25 new or increased expenditure of local funds from
26 becoming effective with regard to a local
27 governmental entity without enactment by a 2/3 vote

1 unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Section 14-9-41, Code of Alabama 1975, to
19 require that a person convicted of certain sex offenses is
20 ineligible to receive benefits of correctional incentive time
21 under certain conditions; and in connection therewith would
22 have as its purpose or effect the requirement of a new or
23 increased expenditure of local funds within the meaning of
24 Amendment 621 of the Constitution of Alabama of 1901, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 14-9-41, Code of Alabama 1975, is
2 amended to read as follows:

3 "§14-9-41.

4 "(a) Each prisoner who shall hereafter be convicted
5 of any offense against the laws of the State of Alabama and is
6 confined, in execution of the judgment or sentence upon any
7 conviction, in the penitentiary or at hard labor for the
8 county or in any municipal jail for a definite or
9 indeterminate term, other than for life, whose record of
10 conduct shows that he has faithfully observed the rules for a
11 period of time to be specified by this article may be entitled
12 to earn a deduction from the term of his sentence as follows:

13 "(1) Seventy-five days for each 30 days actually
14 served while the prisoner is classified as a Class I prisoner.

15 "(2) Forty days for each 30 days actually served
16 while the prisoner is a Class II prisoner.

17 "(3) Twenty days for each 30 days actually served
18 while the prisoner is a Class III prisoner.

19 "(4) No good time shall accrue during the period the
20 prisoner is classified as a Class IV prisoner.

21 "(b) Within 90 days after May 19, 1980, the
22 Commissioner of the Department of Corrections shall establish
23 and publish in appropriate directives certain criteria not in
24 conflict with this article for Class I, II, III, and IV
25 prisoner classifications. Such classifications shall encompass
26 consideration of the prisoner's behavior, discipline, and work
27 practices and job responsibilities.

1 "(c) (1) Class I is set aside for those prisoners who
2 are considered to be trustworthy in every respect and who, by
3 virtue of their work habits, conduct, and attitude of
4 cooperation have proven their trustworthiness. An example of a
5 Class I inmate would be one who could work without constant
6 supervision by a security officer.

7 "(2) Class II is that category of prisoners whose
8 jobs will be under the supervision of a correctional employee
9 at all times. Any inmate shall remain in this classification
10 for a minimum period of six months before being eligible for
11 Class I.

12 "(3) Class III is for prisoners with special
13 assignments. They may not receive any of the privileges of
14 Class I and Class II inmates. Any inmate shall remain in this
15 classification for a minimum period of three months before
16 being eligible for Class II.

17 "(4) Class IV is for prisoners not yet classified
18 and for those who are able to work and refuse, or who commit
19 disciplinary infractions of such a nature which do not warrant
20 a higher classification, or inmates who do not abide by the
21 rules of the institution. Inmates who are classified in this
22 earning class receive no correctional incentive time. This
23 class is generally referred to as "flat time" or
24 "day-for-day." Any inmate shall remain in this classification
25 for a minimum period of 30 days before being eligible for
26 Class III.

1 "(5) No inmate may reach any class without first
2 having gone through and meeting the requirements of all lower
3 classifications.

4 "(d) As a prisoner gains a higher classification
5 status he shall not be granted retroactive incentive credit
6 based on the higher classification he has reached, but shall
7 be granted incentive credit based solely on the classification
8 in which he was serving at the time the incentive credit was
9 earned. Nothing in this article shall be interpreted as
10 authorizing an inmate incentive credits based on the highest
11 classification he attains for any period of time in which he
12 was serving in a lower classification or from the date of his
13 sentence.

14 "(e) Provided, however, no person may receive the
15 benefits of correctional incentive time if he or she has been
16 convicted of a Class A felony or has been sentenced to life,
17 or death, or who has received a sentence for more than 15
18 years in the state penitentiary or in the county jail at hard
19 labor or in any municipal jail. No person may receive the
20 benefits of correctional incentive time if he or she has been
21 convicted of a criminal sex offense involving a child as
22 defined in Section ~~15-20-21(5)~~ 15-20A-4(26) or if he or she
23 has been convicted of a sex offense as provided in Section
24 15-20A-5, and the victim of the offense is at least 12 years
25 of age, but is less than 16 years of age and the person
26 convicted of the offense is at least 10 years older than the
27 victim. No person may be placed in Class I if he or she has

1 been convicted of an assault where the victims of such assault
2 suffered the permanent loss or use or permanent partial loss
3 or use of any bodily organ or appendage. No person may be
4 placed in Class I if he or she has been convicted of a crime
5 involving the perpetration of sexual abuse upon the person of
6 a child under the age of 17 years.

7 "The court sentencing a person shall note upon the
8 transcript to accompany such prisoner the fact that he or she
9 has been sentenced as a result of a crime that forbids his or
10 her being classified as a Class I prisoner.

11 "(f) (1) If during the term of imprisonment a
12 prisoner commits an offense or violates a rule of the
13 Department of Corrections, all or any part of his correctional
14 incentive time accrued pursuant to this section shall be
15 forfeited.

16 "(2) The Commissioner of the Department of
17 Corrections shall have the power to restore to any prisoner
18 who has heretofore, or who may hereafter, forfeit the
19 deductions allowed him or her for good behavior, work habits
20 and cooperation, or good conduct, by violating any existing
21 law or prison rule or regulation such portion of his deduction
22 for good conduct or good behavior as may be proper in his
23 judgment, upon recommendation and evidence submitted to him by
24 the warden in charge.

25 "(g) (1) When a prisoner is serving two or more terms
26 of imprisonment and the sentences run consecutively, then all
27 such sentences shall be combined for the purpose of computing

1 deductions for correctional incentive time and release date;
2 however, the actual deduction from sentence for correctional
3 incentive time provided by this section shall apply only to
4 sentences to be served.

5 "(2) When a prisoner is serving two or more
6 sentences which run concurrently, the sentence which results
7 in the longer period of incarceration yet remaining shall be
8 considered the term to which such prisoner is sentenced for
9 the purpose of computing his release date and correctional
10 incentive time under the provisions of this article. When
11 computing the deductions allowed in this section on
12 indeterminate sentences the maximum sentence shall be the
13 basis for the computation. The provisions of this section
14 shall be administered by the chief administrative officer of
15 the penal institution as it applies to prisoners in any state
16 penal institution, by the sheriff of the county as it applies
17 to prisoners in any county jail and by the chief of police as
18 it applies to prisoners in any municipal jail.

19 "(h) Deductions for good behavior, work habits and
20 cooperation, or good conduct shall be interpreted to give
21 authorized good time retroactively, to those offenders
22 convicted of crimes committed after May 19, 1980, except those
23 convicted of crimes of the unlawful sale or distribution of
24 controlled substances as enumerated in Title 13A and in former
25 Chapter 2 of Title 20, and for any sexual offenses as
26 enumerated in Chapter 6, Title 13A, provided however that the
27 Commissioner of the Department of Corrections shall have the

1 prison records of all inmates, who become eligible under this
2 article, reviewed and shall disqualify any such inmate from
3 being awarded good time under this article at his discretion."

4 Section 2. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 3. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.